

MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:00 PM, TUESDAY, MAY 19, 2015
MEETING ROOM B, CLAY COUNTY COURTHOUSE

Members Present: Greg Anderson, Perry Bushaw, Pamela Harper, Paul Krabbenhoft

Members Absent: none

Others Present: Tim Magnusson, Colleen Eck, Marsha Morse, Dorthy Crozier, Shonna Severson, Mike Severson, Richard Chuala, Jerome Slager, Connie Slager, Justin Berg, Jeff Morten, Connie Mortenson

On motion by Greg Anderson, seconded by Pamela Harper, and unanimously carried, the commission approved the agenda as written.

On motion by Perry Bushaw, seconded by Greg Anderson, and unanimously carried, the Board approved the minutes from April 21, 2015 as written.

Chair Paul Krabbenhoft called the meeting to order at 5:00 p.m. and read the agenda.

JUST INVEST IN REAL ESTATE, LLC - REQUEST FOR VARIANCE

The applicant is seeking approval of a variance to allow a higher development density in the Agricultural General and Resource Protection-Aggregate zoning districts. Currently the development density in these zones is one (1) residence per forty (40) acres. The applicant is also seeking a variance to the setback required for a new residence from an open-lot feedlot. That required setback is currently one-quarter mile. The affected property is a thirty one (31) acre parcel located in the SE Quarter, Section 25, T140N, R46W (Spring Prairie Twp.), in the Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg) zoning districts.

On motion by Greg Anderson, seconded by Perry Bushaw, and unanimously carried, the Board opened the public hearing.

Tim Magnusson, Planning Director, provided aerial views of the proposed lot. The applicant owns several parcels in this area. The applicant is seeking to go beyond the current density standards for both the AG and RP-Agg zoning districts. Each district allows one development site per 40 acres. The 40 acres where the new development site is proposed already exceeds the development standard with its three developed sites. Adding another development site would bring the number to four sites in the 40 acres or a total of eight in the entire quarter section.

Magnusson noted that the proposed new development site is within the 1,320 foot required setback for a residential site from an open lot feedlot. The setbacks are reciprocal in instances where the feedlot was there first. This setback is intended to protect the feedlot owner and surrounding residential sites from issues that may arise with noise and odor from the feedlot facility. There are a couple other residential sites within the 1,320 foot setback, but they were

there before the County feedlot setback requirements were established in 2005. Setbacks are for safety for both parties. The entire parcel just to the north is registered as a feedlot.

Upon reviewing the request, Magnusson found it difficult to see any arguable “practical difficulty” present on this property. This may be a reasonable use of the property not permitted by the ordinance, but since it was initially developed, this site has been a single-family residence on a 31-acre lot and it can continue to be just that. The request to split a new lot of the original parcel appears to be more a request of convenience than one with a practical difficulty. Development on that new parcel would also require the feedlot setback requirement to be reduced by 50%. The plight of the landowner in this request is not due to circumstances unique to the property. Other properties in the vicinity that might be considered for residential development would also have the feedlot setback issue. The property owner was aware of the density and setback issues when he purchased the property. If granted, Magnusson noted that this variance would, in his opinion, alter the essential character of the neighborhood. It would place a new development parcel within 660 feet of an open-lot feedlot. The fact that other sites are within the setback is not sufficient justification to allow more to be placed there. The feedlot has been there since the early 1970s and is currently registered as a feedlot through the State of Minnesota. The setback is measured from the location of a structure to the feedlot property line.

The applicant, Justin Berg, introduced himself and noted that he is also a contractor. He is trying to create a lot for someone he cares about and who has a lot of medical needs to get into a handicapped house.

On motion by Greg Anderson, seconded by Perry Bushaw, and unanimously carried, the Board closed the public hearing.

Anderson commented that he remembers lots of good discussion going into the need for the feedlot setbacks for protection when the new ordinance was approved in 2005. He noted that allowing this request would not be consistent with the ordinance and the comprehensive plan.

On motion by Greg Anderson, seconded by Pamela Harper, and unanimously carried, the Board denied the request from Just Invest in Real Estate, LLC for variance(s) to: 1) Allow a higher development density than 1 residence per quarter/quarter section in the Agricultural General and Resource Protection-Aggregate zoning districts; and 2) Allow less than the minimal setback requirement of ¼ mile for a new residence from an open-lot feedlot. Said property is located in the SE ¼ Section 25 Spring Prairie Twp.

- 1) There is no practical difficulty associated with the request to allow a higher development density;
- 2) The circumstances associated with the development standards and setback are not unique to this property;
- 3) The proposed variance is not in harmony with the general purpose of the zoning district and intent of the Development Code;
- 4) The variances would alter the essential character of the locality.

On motion by Perry Bushaw, and seconded by Greg Anderson, the meeting was adjourned at 5:30 p.m.